

Congress of the United States
Washington, DC 20510

May 13, 2022

Dr. Rochelle Walensky
Director
Centers for Disease Control and Prevention
395 E St., SW
Washington, DC 20024

Director Walensky:

We write to express significant concern over a recent report that the Centers for Disease Control and Prevention (CDC) purchased location data on Americans to determine if COVID-19 lockdown orders were followed.¹ The report claims that the CDC paid \$420,000 for data covering 21 “Potential CDC Use Cases” from SafeGraph, a data broker specializing in location information for points of interest.² The CDC documents contained in the report indicated that the data requested covered an expansive range of locations, including “Places of worship,” schools, and various other settings.³

It is essential we understand the CDC’s public health justifications in obtaining this data, as the collection of location information raises serious concerns that the CDC sought to engage in domestic surveillance of Americans. The Supreme Court in *Carpenter v. US* held that the reasonable expectation of privacy in the digital age extends to mobile location information.⁴ The Court expressed apprehension in recognizing that GPS location data collected by the CDC, like cell-site location information (CSLI), is “. . . detailed, encyclopedic, and effortlessly compiled.”⁵ The legal and privacy concerns that accompany government collection of location data are of paramount importance.

It is imperative that Congress learn the full scope and specifics of the CDC’s location data collection practices, especially concerning whether the data contains personally identifiable information or material that could lead to reidentification. To be clear, the CDC is well aware of the privacy concerns associated with data collection from mobile devices.⁶ The CDC Field Epidemiology Manual explicitly warns that “. . . confidentiality can be a serious problem when

¹ Joseph Cox, *CDC Tracked Millions of Phones to See If Americans Followed COVID Lockdown Orders*, Vice, May 3, 2022, <https://www.vice.com/en/article/m7vymn/cdc-tracked-phones-location-data-curfews>.

² *Id.*

³ *Id.*

⁴ *Carpenter v. United States*, 585 U.S. ___ (2018); see also, *United States v. Jones*, 565 U.S. 400 (2012).

⁵ *Carpenter*, 585 U.S. at 10.

⁶ Principles of Epidemiology: Les. 5, Sec. 4|Self-Study course SS1978|Centers for Disease Control and Prevention (CDC), <https://www.cdc.gov/csels/dsepd/ss1978/lesson5/section4.html> (last visited May 3, 2022).

creating point maps of people with disease, exposure, or injury.”⁷ However, neither the typical CDC data sources, including environmental monitoring; health care providers; individual persons; nor the categories of secondary use of data, contemplate the purchase of location data from commercial data brokers.⁸ The additional acknowledgement that the “CDC does not have direct authority to require data reporting”⁹ leads to questions about how the CDC justified the purchase of this location data, and whether it sought any approval from Congress.

Finally, this report must be viewed in the context of the CDC’s expansive interpretations of existing statutory authority concerning public health and the COVID-19 pandemic.¹⁰ The public’s trust in the CDC has been severely undermined in recent years. The unauthorized purchase of Americans’ location data will only further degrade the CDC’s reputation and ability to carry out its mission.

In context of this report and our expressed concerns, we remind you of the CDC’s legal duty to retain and preserve all documents, communications, and other records relevant to this inquiry, as required by law. This preservation request should be interpreted as instruction to preserve all relevant information that may be responsive to this inquiry.

Please respond to the following inquiries by June 1, 2022.

- What legal authority empowers the CDC to purchase or otherwise acquire location data?
 - Did the CDC obtain legal advice concluding that it has the legal authority to obtain the relevant data?
 - Did the CDC at any point inform Congress of its intent to conduct this action? If so, please provide a copy of the communications, including who the notice was sent to.
- Within the past five years has CDC requested that Congress enact legislation specifically authorizing the purchase or acquisition of location data?
- What specific appropriation line item funded the purchase of the location data?
 - Did the CDC conduct any internal review whether this was the proper use of authorized funds? If yes, please share the findings of the review.
- What legal authority empowers the CDC to obtain and examine “mobility patterns data” in and around “Places of worship”?

⁷ Principles of Epidemiology: Les. 5, Sec. 4|Self-Study course SS1978|Centers for Disease Control and Prevention (CDC), <https://www.cdc.gov/csels/dsepd/ss1978/lesson5/section4.html> (last visited May 6, 2022).

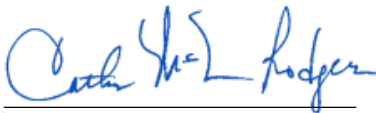
⁸ Centers for Disease Control and Prevention, (CDC) (2022), https://www.cdc.gov/surveillance/projects/dmi-initiative/where_does_our_data_come_from.html (last visited May 5, 2022).

⁹ *Id.*

¹⁰ See, e.g., *Ala. Assoc. of Realtors v. Dep’t of Health and Human Serv.*, 549 U.S. ____ (2021).

- Did the CDC obtain legal advice concluding that the data collection concerning “Places of worship” does not violate the First Amendment’s Free Exercise Clause?
- What legal authority empowers the CDC to obtain the data of specific populations based on ethnic classification?
- In what form did the CDC purchase the data?
 - Did the purchased location data contain any personally identifiable information?
 - Was the purchased location data provided in an aggregate, deidentified form?
- What is the current state of this data?
 - In other words, has it been deleted or is it being repurposed for other uses that may target certain populations?
 - Has the CDC taken any action to combine the purchased location data with other data? If so, explain.
 - What conclusions, analyses or models, or other product was the result of the purchased location data, whether in whole or part, and is there any analyses of location data currently ongoing?
- Is this the only instance of CDC purchasing location data? If not, please provide information for all the previous questions with respect to each purchase of location data.
- Who within the CDC makes decisions regarding purchasing such data?
- Who at CDC has access to such data once purchased, and what kind of privacy and data security protections does the CDC have in place?

Sincerely,



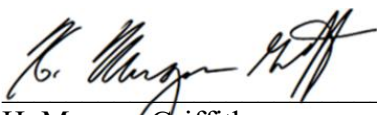
Cathy McMorris Rodgers
Ranking Member




Kelly Armstrong
Member of Congress



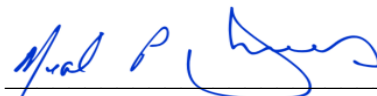
Billy Long
Member of Congress



H. Morgan Griffith
Member of Congress



Earl L. "Buddy" Carter
Member of Congress



Neal P. Dunn, M.D.
Member of Congress



Debbie Lesko
Member of Congress



Jeff Duncan
Member of Congress



Gus Bilirakis
Member of Congress



Markwayne Mullin
Member of Congress



Larry Bucshon, M.D.
Member of Congress



Tim Walberg
Member of Congress



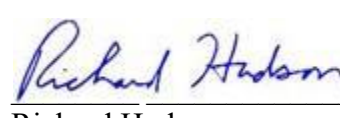
Robert E. Latta
Member of Congress



Greg Pence
Member of Congress



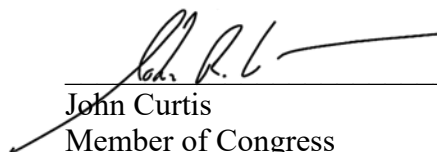
Gary Palmer
Member of Congress



Richard Hudson
Member of Congress



Michael Burgess, M.D.
Member of Congress



John Curtis
Member of Congress



Brett Guthrie
Member of Congress

CC:
The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services